

**Attorney Docket No.: 2-5578-005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Daniel W. TOLLENAAR

Ser. No.: 10/693,350

GAU: 3635

Filed: October 24, 2003

Examiner: Basil S. Katcheves

FOR: DRYWALL BACKING APPARATUS  
AND METHOD OF INSTALLING SAME

AMENDMENT

Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

In response to the Office Action dated January 13, 2006, please enter the following Amendment.

## AMENDMENTS TO THE CLAIMS

Claims 1-41 (Cancelled)

42. (Previously presented) An apparatus for providing backing for U-shaped studs in a wall, said backing apparatus comprising:

a first backing member having a longitudinal axis, a first end, a second end, a top, a bottom, a first side and a second side;

a second backing member having a longitudinal axis, a first end, a second end, a top, a bottom, a first side and a second side; wherein, the second end of the first backing member is longitudinally spaced from the first end of the second backing member;

a hinge operatively attached to said first side of said first and second backing members for permitting said second backing member to pivot with respect to the first backing member between a first position wherein the longitudinal axes of said first and second backing members are aligned in the same plane and a second position whereby the longitudinal axes of the first and second backing members are not aligned in the same plane, whereby said first backing member can be placed between a first and second adjacent upright U-shaped stud, the second backing member pivoted with respect to the first backing member to the second position, and then pivoting said second backing member to the first position thereof to be disposed between said second upright U-shaped stud and a third upright U-shaped stud whereby said second end of said first backing member is adjacent to and on one side of the second upright U-shaped stud and the first end of the second backing member is adjacent to and on the other side of said second upright U-shaped stud; and

said second backing member having a vertical groove in said first side thereof for receiving a flange of the second upright U-shaped stud, said groove being at least partially covered by said hinge when the first and second backing members are in the first position thereof.

43. (Previously presented) The apparatus of claim 42 including:

a third backing member having a longitudinal axis, a first end, a second end, a top, a bottom, a first side and a second side;

said third backing member having a vertical groove in the first side thereof for receiving a flange of a U-shaped stud, said groove being at least partially covered by said hinge when the second and third backing members are in a first position thereof; and

a second hinge operatively attached to said first side of said second and third backing members for permitting said third backing member to pivot with respect to the second backing member between the first position of the second and third backing members wherein the longitudinal axes of said second and third backing members are substantially in the same plane and a second position whereby the longitudinal axes of the second and third backing members are not in the same plane, whereby said second backing member can be placed between said second and third adjacent upright U-shaped studs, the third backing member pivoted with respect to the second backing member to the second position, and then pivoting said third backing member to the first position thereof to be disposed between said third upright U-shaped stud and a fourth upright U-shaped stud closer to said third upright U-shaped stud than to said second upright U-

shaped stud, whereby said second end of said second backing member is adjacent to and on one side of the third upright U-shaped stud and the first end of the third backing member is adjacent to and on the other side of said third upright U-shaped stud.

44. (Canceled)

45. (Previously presented) The apparatus of claim 42 wherein said first backing member has a vertical groove in said first side thereof adjacent the first end thereof whereby a flange of an upright U-shaped stud can extend therein.

46. (Previously presented) The apparatus of claim 45 including a top horizontal member extending between said first and second upright U-shaped studs and on top of said first backing member, said horizontal member having a cross-section like one of said studs including a pair of flanges and wherein said first backing member has a horizontal groove in said first side thereof adjacent the top thereof whereby a flange of said horizontal member can extend therein.

47. (Previously presented) The apparatus of claim 42 including a top horizontal member extending between said first and second upright U-shaped studs and on top of said first backing member, said horizontal member having a cross-section like one of said studs including a pair of flanges and wherein said first backing member has a horizontal groove in the first side thereof adjacent the top and a bottom horizontal groove in the first side adjacent the bottom thereof whereby a flange of a bottom horizontal member can extend therein.



48. (Previously presented) The apparatus of claim 47 including a backside backing member substantially identical to said first backing member, said backside backing member being disposed between said first and second upright U-shaped studs and one flange of said top horizontal member extends into the horizontal groove adjacent the top of the first backing member and the other flange of said top horizontal member extends into the horizontal groove adjacent the top of the backside backing member.

49. (Previously presented) The apparatus of claim 48 including a bottom horizontal member substantially like the top horizontal member but inverted and wherein a flange of said bottom horizontal member extends into the bottom horizontal groove adjacent the bottom of the first backing member and another flange of said horizontal member extends into the horizontal groove adjacent the bottom of the backside backing member.

50. (Canceled)

51. (Original) The apparatus of claim 42 wherein said hinge is comprised of a flexible sheet.

52. (Original) The apparatus of claim 51 wherein said sheet is comprised of metal.

53. (Previously presented) The apparatus of claim 42 wherein said hinge is comprised of a flexible metal sheet having projections therein extending into said backing members for holding the flexible sheet metal hinge attached to said first and second backing members.

54. (Original) The apparatus of claim 42 wherein said backing members are constructed of wood.

55. (Previously presented) The apparatus of claim 42 wherein sheet rock is attached to said upright U-shaped studs adjacent to said first side thereof of the backing members, thereby covering said studs and said backing members.

56. (Original) The apparatus of claim 48 wherein said horizontal member comprises a fire resistant material for creating a fire break.

57. (Original) The apparatus of claim 56 wherein said horizontal member and said studs are made of metal.

58. (Original) The apparatus of claim 57 wherein said metal is galvanized steel.

59. (Previously presented) An apparatus comprising:  
a first upright U-shaped stud;  
a second upright U-shaped stud to one side of and spaced from said first U-shaped

stud;

a third upright U-shaped stud to one side of and spaced from said first and said second U-shaped stud;

a first backing member having a first end, a second end, a top, a bottom, a first side and a second side, said first backing member being disposed between said first and second studs;

a second backing member having a first end, a second end, a top, a bottom, a first side and a second side, said second backing member being disposed between said second and third studs;

a hinge operatively attached to said first side of said first and second backing members for permitting said second backing member to pivot with respect to the first backing member between a first position wherein the first side of each of said first and second backing members are substantially in the same plane and a second position whereby the first and second backing members are not in the same plane, whereby said first backing member can be placed between the first and second adjacent upright U-shaped stud, the second backing member pivoted with respect to the first backing member, and then pivoting said second backing member to a position to be disposed between said second stud and said third stud adjacent to said second stud whereby said second end of said first backing member is adjacent to and on one side of the second stud and the first end of the second backing member is adjacent to and on the other side of said second stud.

60. (Previously presented) The apparatus of claim 59 including:

a third backing member having a first end, a second end, a top, a bottom, a first side and a second side;

said third backing member having a vertical groove in the first side thereof for receiving a flange of a U-shaped stud, said groove being at least partially covered by said hinge when the second and third backing members are in a first position thereof; and

a second hinge operatively attached to said first side of said second and third backing members for permitting said third backing member to pivot with respect to the second backing member between the first position of the second and third backing members wherein the first side of each of said second and third backing members are substantially in the same plane and a second position whereby the second and third backing members are not in the same plane, whereby said second backing member can be placed between said second and third adjacent upright U-shaped studs, the third backing member pivoted with respect to the second backing member to the second position, and then pivoting said third backing member to the first position thereof to be disposed between said third upright U-shaped stud and a fourth upright U-shaped stud closer to said third upright U-shaped stud than to said second upright U-shaped stud, whereby said second end of said second backing member is adjacent to and on one side of the third upright U-shaped stud and the first end of the third backing member is adjacent to and on the other side of said third upright U-shaped stud.

61. (Previously presented) The apparatus of claim 59 wherein said second backing member has a vertical groove in said first side thereof adjacent the first end thereof whereby a flange of an upright U-shaped stud can extend therein.

62. (Previously presented) The apparatus of claim 59 wherein said first backing member has a vertical groove in said first side thereof adjacent the first end thereof whereby a flange of an upright U-shaped stud can extend therein.

63. (Previously presented) The apparatus of claim 60 including a top horizontal member extending between said first and second upright U-shaped studs and on top of said first backing member, said horizontal member having a cross-section like one of said studs including a pair of flanges and wherein said first backing member has a horizontal groove in said first side thereof whereby a flange of said horizontal member can extend therein.

64. (Previously presented) The apparatus of claim 59 including a top horizontal member extending between said first and second upright U-shaped studs and on top of said first backing member, said horizontal member having a cross-section like one of said studs including a pair of flanges and wherein said first backing member has a horizontal groove in the first side thereof adjacent the top thereof and a bottom horizontal groove in the first side adjacent the bottom thereof whereby a flange of a bottom horizontal member can extend therein.

65. (Previously presented) The apparatus of claim 64 including a backside backing member substantially identical to said first backing member, said backside backing member being disposed between said first and second upright U-shaped studs and one flange of said top horizontal member extends into the horizontal groove adjacent the top of the first backing member and the other flange of said top horizontal member extends into the horizontal groove adjacent the top of the backside backing member.

66. (Previously presented) The apparatus of claim 65 including a bottom horizontal member substantially like the top horizontal member but inverted and wherein a flange of said bottom horizontal member extends into the horizontal groove adjacent the bottom of the first backing member and another flange of said horizontal member extends into the horizontal groove adjacent the bottom of the backside backing member.

67. (Canceled)

68. (Original) The apparatus of claim 59 wherein said hinge is comprised of a flexible sheet.

69. (Original) The apparatus of claim 68 wherein said sheet is comprised of metal.

70. (Previously presented) The apparatus of claim 59 wherein said hinge is comprised of a flexible metal sheet having projections therein extending into said backing

members for holding the flexible sheet metal hinge attached to said first and second backing members.

71. (Original) The apparatus of claim 70 wherein said backing members are constructed of wood.

72. (Previously presented) The apparatus of claim 59 wherein sheet rock is attached to said upright U-shaped studs adjacent to said first side thereof of the backing members thereby covering said studs and said backing members.

73. (Original) The apparatus of claim 65 wherein said horizontal member comprises a fire resistant material for creating a fire break.

74. (Original) The apparatus of claim 73 wherein said horizontal member and said studs are made of metal.

75. (Original) The apparatus of claim 74 wherein said metal is galvanized steel.

76. (Original) The apparatus of claim 75 wherein sheet rock is attached to said studs and covers said backing members.

77. (Previously presented) The apparatus of claim 43, wherein said first, second and third upright U-shaped studs are equidistantly spaced from adjacent studs and an additional upright U-shaped stud that is not spaced equidistantly from one of the first and third upright U-shaped studs; and a corner wall backing member having a first end, a second end, a top, a bottom, a first side and a second side, and wherein the first side is disposed in a plane and wherein said corner wall backing member is disposed between said first and additional studs, a flange operatively attached to and extending in a plane substantially the same as or parallel to the plane of the first side of the backing member, said flange being attached to said first upright U-shaped stud and said first end of said backing member being attached to said additional U-shaped stud.

78. (Previously presented) The apparatus of claim 60 wherein the first hinge and the second hinge are formed of one piece of flexible sheet metal which extends across said first, second and third backing members.

79. (Previously presented) The apparatus of claim 78 including a fourth stud and wherein said flexible sheet of metal extends beyond from said first stud to said fourth stud whereby said flexible sheet can be attached to said first, second, third and fourth studs.



80. (Currently amended) An apparatus for providing backing for studs in a wall, said ~~backing~~ apparatus comprising:

a first backing member having a first end and a second end, a front side and a back side, the front side being disposed in a first plane;

a second backing member having a first end and a second end, a front side and a back side, the front side being disposed in the first plane; and

a first substantially planar structure operatively attached to said first and second backing members and spanning therebetween for spacing the second end of the first backing member a predetermined distance from the first end of the second backing member, the first substantially planar structure being disposed in a plane substantially parallel to said first plane, whereby the first backing member ~~can be~~is placed between a first upright stud having a side disposed in a plane that is substantially similar to said first plane and a second upright stud having a side disposed in a plane that is substantially similar to said first plane, the second upright stud spaced from the first upright stud and whereby the second backing member can be disposed between the second upright stud and a third upright stud spaced from the second upright stud such that the second end of the first backing member is adjacent to and on one side of the second upright stud and the first end of the second backing member is adjacent to and on another side of the second upright stud and wherein the predetermined distance is approximately the width of a portion of the second upright stud.

81. (Previously presented) The apparatus of claim 80 further comprising:  
a third backing member having a first end and a second end; and  
a second substantially planar structure operatively attached to the second and third backing members for spacing the second end of the second backing member a predetermined distance from the first end of the third backing member whereby the second backing member can be placed between the second upright stud and the third upright stud such that the third backing member can be disposed between the third upright stud and a fourth upright stud spaced from the third upright stud and whereby the second end of the second backing member is adjacent to and on one side of the third upright stud and the first end of the third backing member is adjacent to and on another side of the third upright stud.

82. (Previously presented) The apparatus of claim 80 wherein the first substantially planar structure is comprised of metal.

83. (Previously presented) The apparatus of claim 81 wherein the second substantially planar structure is comprised of metal.

84. (Previously presented) The apparatus of claim 80 wherein the first and second backing members are constructed of wood.

85. (Previously presented) The apparatus of claim 81 wherein the first, second and third backing members are constructed of wood.

86. (Previously presented) The apparatus of claim 80 wherein sheet rock is attached to the upright studs adjacent to a front side thereof of each of the first and second backing members, thereby covering the first and second upright studs and the front sides of the first and second backing members.

87. (Previously presented) The apparatus of claim 80 wherein the first and second upright studs are made of metal.

88. (Previously presented) The apparatus of claim 87 wherein the first and second upright studs are U-shaped.

89. (Previously presented) The apparatus of claim 87 wherein the metal is galvanized steel.

90. (Currently amended) A wall comprising:  
a first upright stud having a side disposed in a first plane;  
a second upright stud to one side of and spaced from the first stud having a side disposed in said first plane;  
a third upright stud to one side of and spaced from the second stud having a side disposed in said first plane;  
a first backing member disposed between the first and second studs, said first backing member having a front planar surface on a front side thereof;

a second backing disposed between the second and third studs, said second backing member having a front planar surface on a front side thereof, said front planar surface disposed in a plane that is substantially similar to said first plane; and

a first substantially planar structure operatively attached to the first and second backing members and spanning therebetween, said first structure further being attached to at least one of the first, second or third upright studs and being disposed in a plane substantially parallel to the plane of said front planar surface of the first and second backing members.

91. (Previously presented) The wall of claim 90 further comprising:  
a fourth upright stud to one side of and spaced from the third stud;  
a third backing member disposed between the third and fourth upright studs; and  
a second substantially planar structure operatively attached to the second and third backing members and being further attached to at least one of the third and fourth upright studs.

92. (Previously presented) The wall of claim 90 wherein the first substantially planar structure is attached to the second stud.

93 (Previously presented) The wall of claim 92 wherein the first substantially planar structure is also attached to the first stud.

94. (Previously presented) The wall of claim 91 wherein the second substantially planar structure is attached to the third stud.

95. (Previously presented) The wall of claim 91 wherein the second substantially planar structure is also attached to the fourth stud.

96. (Currently amended) A wall comprising:

- a first upright stud having a side disposed in a first plane;
- a second upright stud having a side disposed in said first plane spaced in relation to the first upright stud to define a first space therebetween;
- a third upright stud having a side disposed in said first plane supported in spaced relation to the second upright stud to define a second space therebetween;
- a fourth upright stud having a side disposed in said first plane supported in spaced relation to the third upright stud to define a third space therebetween;
- a first backing member sized to be received in the first space and extend between the first and second upright studs, said first backing member having a front planar surface on a front side thereof, said front planar surface disposed in a plane that is substantially similar to said first plane;
- a second backing member sized to be received in the second space and extend between the second and third upright studs, said second backing member having a front planar surface on a front side ~~side~~ thereof, said front planar surface disposed in a plane that is substantially similar to said first plane;

a third backing member sized to be received in the third space and extend between the third and fourth upright studs; and

a substantially planar spacer attached to the first, second and third backing members and at least one of the first, second, third, and fourth upright studs such that the first backing member is supported in the first space and the second backing member is supported in the second space and the third backing member is supported in the third space, said substantially planar spacer being disposed in a plane substantially parallel to the plane of said front planar surface of the first and second backing members.

97. (Previously presented) The wall of claim 96 wherein the spacer member is attached to each of the first, second, third and fourth upright studs.

98. (Withdrawn) An apparatus comprising:

a first upright stud having a front leg, a rear leg, and an intermediate leg extending between said front and rear legs, the front leg of the first upright stud having a front surface disposed in a plane;

a second upright stud to one side of and spaced from said first stud said second stud having a front leg, a rear leg and an intermediate leg extending between said front and rear legs, the front leg of the second upright stud having a front surface disposed substantially in said plane; and

a backing member having a first end, a second end, a top, a bottom, a first side and a second side, said backing member being disposed between said first and second studs, a flange operatively attached to and extending in a plane substantially the same as

or parallel to a plane of the first side of the backing member, said flange being attached to the front leg of said second upright stud, said first end of said backing member being operatively attached to the intermediate leg of said first upright stud, the plane of the first side of the backing member being substantially the same as said plane of the front leg of the first upright stud.

99. (Withdrawn) An apparatus comprising:

A backing member having a first end, a second end, a top, a bottom, a first side and a second side, said backing member being disposed between a first and second upright stud, a flange operatively attached to and extending in a plane substantially the same as or parallel to a plane of the first side of the backing member, said flange being attached to a front leg of said second upright stud, said first end of said backing member being operatively attached to an intermediate leg of said first upright stud, the plane of the first side of the backing member being substantially the same as the plane of a front leg of the first upright stud.

100. (Withdrawn) An apparatus comprising:

A backing member having a first end, a second end, a top, a bottom, a first side and a second side, said backing member being disposed between a first and second stud, a hinge operatively attached to and extending in a plane substantially the same as or parallel to a plane of the first side of the backing member, said hinge being attached to a front leg of said second stud, the plane of the first side of the backing member being substantially the same as the plane of the front leg of the first stud.

101. (Withdrawn) An apparatus comprising:

A backing member having a first end, a second end, a top, a bottom, a first side and a second side, said backing member being disposed between a first and second stud, a substantially planar structure operatively attached to and extending in a plane substantially the same as or parallel to a plane of the first side of the backing member, said substantially planar structure being attached to a front leg of said second stud, the plane of the first side of the backing member being substantially the same as the plane of the front leg of the first stud.

102. (Withdrawn) The apparatus of claim 98 further comprising a vertical groove in the backing member for receiving a flange of one of the upright studs.

103. (Withdrawn) The apparatus of claim 99 further comprising a vertical groove in the backing member for receiving a flange of one of the upright studs.

104. (Withdrawn) The apparatus of claim 100 further comprising a vertical groove in the backing member for receiving a flange of one of the studs.

105. (Withdrawn) The apparatus of claim 101 further comprising a vertical groove in the backing member for receiving a flange of one of the studs.



106. (Withdrawn) The apparatus of claim 100 wherein the hinge is also operatively attached to a front leg of said first stud.

107. (Withdrawn) The apparatus of claim 104 wherein the hinge is also operatively attached to a front leg of said first stud.

108. (Withdrawn) The apparatus of claim 101 wherein the substantially planar structure is also operatively attached to a front leg of said first stud.

109. (Withdrawn) The apparatus of claim 105 wherein the substantially planar structure is also operatively attached to a front leg of said first stud.

110. (Withdrawn) The apparatus of claim 98 wherein the backing member has a second flange attached to the front leg of said first upright stud.

111. (Withdrawn) The apparatus of claim 99 wherein the backing member has a second flange attached to the front leg of said first upright stud.

112. (Withdrawn) The apparatus of claim 102 wherein the backing member has a second flange attached to the front leg of said first upright stud.

113. (Withdrawn) The apparatus of claim 103 wherein the backing member has a second flange attached to the front leg of said first upright stud.

114. (New) The apparatus of claim 80 wherein at least one of the upright studs is constructed of metal.

115. (New) The wall of claim 90 wherein at least one of the upright studs is constructed of metal.

116. (New) The wall of claim 96 wherein at least one of the upright studs is constructed of metal.

### REMARKS

Claims 1-41, 44, 50 and 67 are cancelled.

Claims 42, 43, 45-49, 51-66 and 68-79 are allowed.

Claims 98-113 have been withdrawn.

Claims 80, 90 and 96 have been amended to recite that Applicant's backing member is planar, unlike the prior art, which is parallel and perpendicular. (See the Interview Summary of the interview between Applicant's Attorney, David Schramm, and Examiner Katcheves).

On June 13, 2006, Applicant's Attorney, Michael O. Sturm, and Examiner Katcheves again discussed amended claims 80, 90 and 96 by telephone.

New claims 114, 115 and 166 have been added.

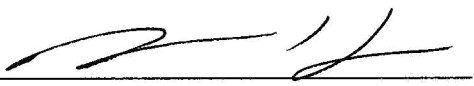
Accordingly, since all of the remaining claims 42, 43, 45-49, 51-66, 68-97 and 114-116 are believed to be clearly allowable, a notice to that effect is earnestly solicited.

Respectfully submitted,

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By: \_\_\_\_\_

  
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